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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/669,171	09/23/2003	Brian Gonsalves	1033-SS00419	1698

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EXAMINER	
HUYNH, BA	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/669,171	GONSALVES ET AL.	
	Examiner	Art Unit	
	Ba Huynh	2179	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *26 March 2007*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *16-26 and 40* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *16-26, 40* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

1. Applicant's election of Group I (claims 16-26 and 40), and provisionally withdrawing of claims 27-39 in the reply filed on 3/26/07 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

Claim Rejections - 35 USC § 103

2. Claims 16-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over us 2003/0028890 (Swart et al), in view of US 7,054,291 (Balazinski et al).

- As for claims 16, 24: Swart et al (herein Swart) teach a computer implemented method and corresponding apparatus of network services comprising a video content source operable to output an information stream in response to a delivery request (0043-0047) and further operable to discontinue output of the information stream in response to a cease request (0071), the video content source having a unique address (inherently include in the teaching of web site and online databases), an engine for maintaining a list of available content sources comprising video content sources (0045, 0048), an access engine operable to receive user input from a user device (0048), the user input includes the search results mapable to the unique address and indicating a desire for the video stream (0045, 0046), and service engine coupled to the access engine and operable to initiate establishment of at least a portion of a

point-to-point microwave communication link between the user device and the video source (0101), the network service engine further operable to initiate sending of the delivery request (0043-0047) and to track a metric associated with user access to the information system (0056). Although Swart clearly teach point-to-point microwave communication link between the user device and the video source (101, 107), and that the user device and the video source can be connected through Wide Area Network/Internet and can be supported by any protocol (0065, 0092, 0096, 0107, 0112). Since point-to-point protocol communication link, which was developed by the Internet Engineering Task and has become the de facto Wide Area network link protocol, implementation of the point-to-point protocol communication link between the user device and the video source is inherently included in Swart's teaching of point-to-point microwave link. Even if it is not, implementation of point-to-point protocol communication link is well known in the art of information processing as is disclosed by Balazinski et al (Balazinski's 1:56-67, 2:1-67. Further teachings of point-to-point communication protocol and point-to-point connection negotiation can be found in US 7,149,224, 1:12-2:48; US 6,160,808, 1:19-64). It would have been obvious to one of skill in the art, at the time the invention was made, to combine the well known implementation of point-to-point protocol communication link to Swart's teaching of communication protocol. Motivation of the combining is for the obvious advantage of being well recognized protocol and as suggested by Swart as set forth above (i.e., the system may support any protocol). The metric is selected from a group consisting of information throughput and connection duration (0020, 0056,

0059, 0109). The system further comprises a billing engine to generate an invoice based on the metric (0059, 0072).

- As for claim 17: Swart fails to clearly teach notifying the consumer the cost of service and receiving payment prior to service. However official notice is taken that implementation of notifying the consumer the cost of service and receiving payment prior to service would have been an obvious method of doing business.
- As for claim 18: A telephone interface associated with the access engine (0048). User input can be received via a voice recognition system 219, 226. Thus the conversion of voice input to a request for connection appears inherently include, or even if it is not would have obvious to one of skill in the art in light of Swart's teaching of the voice recognition system and the telephone interface for providing a supplement input interface.
- As for claim 19: The system further includes a list of video content sources each having a unique address (0044, 0045, 0048). The service engine operable to facilitate point-to-point protocol over Ethernet communication link (0076, 0101). Notifying the consumer the cost of service and receiving payment prior to service would have been an obvious method of doing business.
- As for claim 20: The metric includes information throughput and connection duration (0020, 0056, 0059, 0109). Tracking quality of service and peak bandwidth would have been obvious method of doing business in video transmission.
- As for claim 21: Implementation of converting variable bit rate to constant bit rate stream would have been obvious for better video quality and bandwidth control.

- As for claim 22: It is implicitly included that the video content source toggle from not output to output state responsive to an accepted video transfer request.
- As for claim 23: At least a portion of the request comprises a format selected from the group consisting of a dual tone multi-frequency signal, a TCP/IP packet, and a voice signal (0045, 0064, 0074, 100).
- As for claim 25: In light of the rejection set forth in claim 1, its is inherently included in that data indicating a plurality of connection options is sent to the video content source in a negotiation process (Balazinski's 1:56-67, 2:1-67. Further teachings of point-to-point communication protocol and point-to-point connection negotiation can be found in US 7,149,224, 1:12-2:48; US 6,160,808, 1:19-64).
- As for claim 26: Connection information is stored in a profile associated with the user terminal (Balazinski's 3:46-4:5). The connection information includes the address of the video content source (Swart's teaching of website; Balazinski's 1:64-65) and at least one connection rule (Balazinski's 2:44-67, i.e., option with parameter supportable by the server).
- As for claim 40: Swart et al (herein Swart) teach a computer implemented method and corresponding apparatus of network services comprising a video content source operable to output an information stream in response to a delivery request (0043-0047) and further operable to discontinue output of the information stream in response to a cease request (0071), the video content source having a unique address (inherently include in the teaching of web site and online databases), an engine for maintaining a list of available content sources comprising video content sources

(0045, 0048), an access engine operable to receive user input from a user device (0048), the user input includes the search results mapable to the unique address and indicating a desire for the video stream (0045, 0046), and service engine coupled to the access engine and operable to initiate establishment of at least a portion of a point-to-point microwave communication link between the user device and the video source (0101), the network service engine further operable to initiate sending of the delivery request (0043-0047). Swart clearly teach point-to-point microwave communication link between the user device and the video source (101, 107), and that the user device and the video source can be connected through Wide Area Network/Internet and can be supported by any protocol (0065, 0092, 0096, 0107, 0112). Since point-to-point protocol communication link, which was developed by the Internet Engineering Task and has become the de facto Wide Area network link protocol, implementation of the point-to-point protocol communication link between the user device and the video source is inherently included in Swart's teaching of point-to-point microwave link. Even if it is not, implementation of point-to-point protocol communication link is well known in the art of information processing as is disclosed by Balazinski et al (Balazinski's 1:56-67, 2:1-67. Further teachings of point-to-point communication protocol and point-to-point connection negotiation can be found in US 7,149,224, 1:12-2:48; US 6,160,808, 1:19-64). It would have been obvious to one of skill in the art, at the time the invention was made, to combine the well known implementation of point-to-point protocol communication link to Swart's teaching of communication protocol. Motivation of the combining is for the obvious

advantage of being well recognized protocol and as suggested by Swart as set forth above (i.e., the system may support any protocol).

Response to Arguments

3. Applicant's arguments filed 10/27/07 have been fully considered but they are not persuasive.

REMARKS:

The Swart et al. reference: Swart et al teach a network service method and corresponding means for requesting connection to a video content source operable to output an information stream. The request for connection is made by user selection from a list of contents (par 0066, lines 6-13). This is similar to the appellant's description in par. 0049 of the specification. Note that each item in the list of content is associated with an address of the content file. More importantly, the user may make a request for connection by directly specify a network address in a query (par 0073, line16-17, wherein the user requests for connection by specifying a service provider). Responsive to the request for connection, the system determines the address of the video content source (0066: "data indicating the source of the content", "appropriate remote source". Note also that each of the source contents is point to an address in a source database), establishes communication link with the user, and delivers the content to the user (0081, 0085; figure 9A-C). The system tracking a metric associated with communication of the information stream (0020, 0021, 0086, 0088, 0116) and generate a billing record based on the metric (0020, 0021, 0086, 0088, 0116). The metric includes viewing statistics such as number of time viewed, date/time viewed, usage rights and fees (0045), and bandwidth available (0088).

Request for connection can be made via voice input which will be converted by a speech recognition (0064, 0073, 0074). Swart discloses that the system downloads content by forming a direct link 205 between the video content source and the user terminal (0047, 0066), or through a point-to-point microwave network which appears read on the claimed limitation "point-to-point protocol communication link" ("point-to-point protocol" is commonly defined as a data link protocol for dial up telephone connections such as between a computer and the Internet). Even if it is not, it would have been obvious to one of skill in the art to implement the point-to-point protocol communication link to Swart. Motivation of the combining is for the well known advantage that PPP provides better protection for data integrity and security.

The arguments: As for claims 16, 22 and 23, the appellants argue that Swart does not disclose receiving a request for connection to a video content source. In response to the argument, the request for connection is made by user selection from a list of contents (par 0066, lines 6-13). This is similar to the appellant's description in par. 0049 of the specification. Note that each item in the list of content is associated with an address of the content file. More importantly, the user may make a request for connection by directly specify a network address in a query (par 0073, line16-17, wherein the user requests for connection by specifying a service provider). Thus Swart reads on the claimed limitation as recited. The appellants further argue that Swart does not teach tracking a metric associated with communication of the information stream. In response to the argument, Swart discloses tracking a metric associated with communication of the information stream (0020, 0021, 0086, 0088, 0116) and generate a billing record based on the metric (0020, 0021, 0086, 0088, 0116). The metric includes viewing statistics such as number of time viewed, date/time viewed, usage rights and fees (0045), and

bandwidth available (0088). Viewing statistic such as number of time viewed, date/time viewed, and bandwidth available are metrics associated with communication of the information stream. The appellants further argue that Swart does not teach generating a billing record partially based upon the metric. In response to the argument, Swart clearly teaches generating a billing record based upon the metric, i.e., based upon viewing statistic such as number of time viewed, date/time viewed, and bandwidth available (0020, 0021, 0086, 0088, 0116).

As for claim 17, the appellants repeat the argument that Swart does not teach the initiating and managing ("managing" is not a claim language) point-to-point protocol connection. The argument has been addressed as set forth above. The appellants further argue that Swart does not teach notifying the user the cost associated with the accessing the video content. The argument is irrelevant since the rejection is based on an Official notice taken that notifying the user the cost associated with accessing the video content source and accepting payment input from the user prior to forming the link would have been obvious method of doing business. It would have been obvious to combine the method to Swart for the profit guaranty.

As for claim 18, the appellants argue that Swart does not teach a spoken directive from a calling party and converting the spoken directive into the request for connection. The limitation is disclosed by Swart argument is irrelevant since the rejection is based on an Official notice taken that implementation of voice input interface is well known in the art. Further study of Swart also shows that request for connection can be made via voice input which will be converted by a speech recognition (0064, 0073, 0074).

As for claim 19, the appellants argue that Swart does not teach maintaining a list of available content sources, the list including the video content source and a unique address for the

video content source. The list is disclosed by Swart in par 0045 (list of suggest content), par 0064 a list of content available based on a search result, and par 0066 a list of book available. Each item in the list has an associated address for downloading. The appellants also repeat the argument that Swart does not teach notifying the user the cost associated with the accessing the video content. The argument is irrelevant since the rejection is based on an Official notice taken that notifying the user the cost associated with accessing the video content source and accepting payment input from the user prior to forming the link would have been obvious method of doing business. It would have been obvious to combine the method to Swart for the profit guaranty.

As for claim 20, in response to the argument that Swart does not disclose the tracking of information throughput, quality of service, and peak bandwidth. Tracking of information throughput in disclosed in par 0081 and 0085. Tracking of quality of service is disclosed in par 0088, and tracking peak bandwidth is disclosed in par. 0080, 0088, and 0115.

As for claim 21, as set forth in the rejection, combing converting from variable bit rate to constant bit rate stream to Swart would have been obvious to one of skill in the art for better video quality and bandwidth control. The argument is irrelevant since the appellant is attacking Swart alone while the rejection is based on an obviousness reasoning in light of Swart.

As for claim 24, the appellants reiterate all previous arguments regarding the request for connection, the cost notification and pre-payment, tracking metric associated with communication of the information stream. It is believed that all arguments have been addressed as set forth above.

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ba Huynh whose telephone number is (571) 272-4138. The examiner can normally be reached on Mon - Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Weilun Lo can be reached on 571-272-4847. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Ba Huynh
Primary Examiner
AU 2179
5/10/07